

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

GLASS PROJECTS RESOURCES, INC.)
22365 Broderick Drive, Suite 300)
Sterling, VA 22101)

Plaintiff,)

v.)

ARCHER WESTERN-HEERY)
INTERNATIONAL JOINT VENTURE)
333 Technology Drive, Suite 205)
Canonsburg, PA 15317)

Case No. 2:18cv495)

Serve: Registered Agent for Archer Western)
Corporation Service Company)
100 Shockoe Slip, 2nd Flr)
Richmond, VA 23219)

Registered Agent for CBRE Heery,)
Inc.)
CT Corporation System)
4701 Cox Road, Suite 285)
Glen Allen, VA 23060)

COMPLAINT

and)

TRAVELERS CASUALTY AND)
SURETY COMPANY OF AMERICA)
One Tower Square)
Hartford, CT 06183)

Serve: Registered Agent)
Corporation Service Company)
100 Shockoe Slip, 2nd Flr)
Richmond, VA 23219)

Defendants.)

COMES NOW the Plaintiff, Glass Products Resources, Inc. (“GPR”), by and through its undersigned counsel, for its Complaint against Archer Western-Heery International Joint Venture (“Joint Venture”), and Travelers Casualty and Surety Company of America (“Travelers”), and avers as follows:

PARTIES

1. Plaintiff is a Virginia corporation with its principal place of business located at 22365 Broderick Drive, Sterling, Virginia and is primarily engaged in the construction industry primarily as a glass and glazing specialty contractor.
2. Defendant, Joint Venture is a joint venture between Archer Western and Heery International with offices located at 333 Technology Drive, Canonsburg, Pennsylvania upon information and belief, is qualified to transact business in the Commonwealth of Virginia.
3. Pursuant to the requirements of the prime contract, the Joint Venture was required to provide performance and payment bonds (“Bonds”).
4. Upon information and belief, Defendant, Traveler Casualty and Insurance Company of America (“Travelers”) is a Connecticut corporation and is qualified to transact business in the Commonwealth of Virginia.
5. Upon information and belief, the Joint Venture entered into a construction contract (“Prime Contract”) on or about November 21, 2011 with the City of Norfolk (“Owner”) for the construction of the Norfolk Consolidated Courts Complex located at 150 St. Pauls Boulevard, Norfolk, Virginia (“Project”).
6. The Prime Contract amount was Fifty Nine Million Seventy Five Thousand Dollars (\$59,075,000).

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7. Pursuant to the requirements of the Contract between the Joint Venture and the Owner, the Joint Venture was required to provide a payment bond for the protection of those supplying materials, labor or equipment to the Project. A true copy of the Payment Bond is attached hereto as Exhibit 1.

JURISDICTION

8. Jurisdiction is conferred on this Court due to diversity in citizenship of the parties and because the amount in controversy exceeds \$100,000.00, exclusive of interest.

COUNT I
(Breach of Contract)

9. Plaintiff incorporates the allegations of Paragraphs 1 through 8 as if full set forth herein as Paragraph 9.
10. On or about July 2, 2012, the Joint Venture entered into an agreement with GPR for the performance of the exterior glazing, curtainwall, entrances and storefronts for the lump sum price of Three Million Three Hundred Fifty Thousand Dollars (\$3,350,000) in accordance with the contract documents ("Subcontract"). A true copy of the Subcontract is attached hereto as Exhibit 2.
11. Pursuant to the terms of the Subcontract, GPR performed its work at the direction of the Joint Venture.
12. At the request and direction of the Joint Venture, GPR performed added work and the Joint Venture issued change orders increasing the Subcontract by \$1,075,401.00, thereby revising the approved Subcontract amount to \$4,425,401.00, of which the Joint Venture has paid GPR \$4,309,337.00, leaving a balance due of \$116,064.00.

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13. At the request and direction of the Joint Venture, GPR performed added work and submitted requests for equitable adjustments to the Joint Venture in the amount of \$28,809, which the Joint Venture has failed and refused to pay.
14. The Prime Contract with the Owner provided that Phase II of the Project had to be awarded within seven days of Phase I, and if not, the contractors would be entitled to an equitable adjustment for any escalation to the pricing.
15. Pursuant to the flow-down provisions in the Subcontract, GPR was entitled to submit a claim for the escalation costs related to its work.
16. Phase II was awarded approximately one year later.
17. GPR submitted its requests for an equitable adjustment in the amount of \$205,685 on or about September 10, 2015.
18. The Joint Venture has failed and refused to provide any information or documentation on the status of the requests and more than a reasonable time has expired so that the Joint Venture should not have the right to rely on a pay-when-paid defense.
19. GPR completed its work and the last day of work on the Project was on or about February 6, 2018.
20. All conditions precedent to the filing of this Action have been satisfied.
21. Despite repeated demands, the Joint Venture has failed to pay GPR the amount of Three Hundred Fifty Thousand Five Hundred Forty Dollars (\$350,540) in material breach of the Subcontract.

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WHEREFORE, Glass Products Resources, Inc. respectfully requests judgment against Archer Western-Heery International Joint Venture in the amount of Three Hundred Fifty

Thousand Five Hundred Forty Dollars (\$350,540) plus interest, costs and such other relief as this Court deems appropriate.

COUNT II
(Breach of Payment Bond)

22. Plaintiff incorporates the allegations of Paragraphs 1 through 21 as if full set forth herein as Paragraph 22.
23. Plaintiff was a Subcontractor to the Joint Venture.
24. Plaintiff is a proper claimant under the payment bond issued by Travelers.
25. Plaintiff provided timely notice of its claim to Travelers.
26. Plaintiff provided to Travelers a timely demand for payment.
27. Travelers has failed and refused to make payment in breach of the provisions of the payment bond.

WHEREFORE, Glass Products Resources, Inc. respectfully requests judgment against Travelers Casualty and Surety Company of America in the amount of Three Hundred Fifty Thousand Five Hundred Forty Dollars (\$350,540) plus interest, costs and such other relief as this Court deems appropriate.

Respectfully submitted by,

/s/

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